

TAB

19 JAN 1972

MEMORANDUM FOR: Executive Director-Comptroller

THROUGH : Deputy Director for Support

SUBJECT : Security Classification Procedures:
Draft Revision of EO 10501 -- NESM 113

1. This memorandum requests action on your part; such action is set forth in paragraph 11.

2. In a memorandum dated 15 January 1971, Dr. Henry A. Kissinger advised that the President has directed a review of the current security classification procedures set forth in Executive Order 10501, as amended. To carry out the direction of the President, Dr. Kissinger established a Committee to be chaired by a representative of the Attorney General and comprised of representatives of the Secretary of State, the Secretary of Defense, the Director of Central Intelligence, the Chairman of the Atomic Energy Commission and the National Security Council Staff.

3. The Committee chaired by Mr. William H. Rehnquist, Assistant Attorney General, Office of Legal Counsel, Department of Justice met intermittently until August 1971 when a draft revision of EO 10501 was circulated to the membership for comment. No further meetings were held to consider differences.

4. On 15 December, Mr. Rehnquist, having been appointed an Associate Justice of the Supreme Court transferred temporary chairmanship of the Committee to Dr. Kissinger's office. Following an announcement by the Congress that hearings will be held on the subject of classification of information, the Staff Secretary of the National Security Council submitted a final draft of a proposed revision of Executive Order 10501 for the selection of alternatives and comment.

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5. The tone of the deliberations by the Bohquist Committee was set by the following instructions and events.

- a. Following a spate of leaks to the press, the President in a memorandum, dated 21 December 1970, to the Director of Central Intelligence and other addressees, set forth his concern and instructed the Director to provide guidance in this field, especially through the machinery of the intelligence community. He noted the statutory responsibility of the Director to protect intelligence sources and methods.
- b. Although Dr. Kissinger's memorandum limited the review of Executive Order 10501, as amended to a few specific sections, the White House later verbally directed a total review of the Order.
- c. The Chairman was aware of White House opinion that too much government paper is classified, and that it remains classified too long.
- d. The President summoned the Committee to meet with him on one occasion. He directed that the Committee expand its goals to include: (1) recommendations on declassifying the documents of World War II, Korean War, U-2 and the Cuban Missile Crisis; (2) drastic reduction of Top Secret clearances; (3) major reduction of papers classified in the future; (4) proposed legislation to protect classified data; and (5) a new clearance for the most highly classified material.
- e. The "Pentagon Papers" case broke during this period. It focused attention on the need to protect classified information in the hands of contractors and on the "need-to-know" principle.
- f. The Department of Defense, which has more than 80 percent of the classified material in government, commented upon its unmanageable

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problem under the present system. Much of its classified information concerns hardware; i.e., weapons systems, which, they claim can automatically be declassified after a relatively short passage of time or upon the occurrence of an event. (Requirements for the protection of intelligence sources and methods are, of course, not similar.)

6. Throughout its deliberations our representative focused on certain broad security principles important to this Agency:

- a. The need for the protection of intelligence sources and methods extends over long periods of time and cannot be satisfied by automatic declassification procedures.
- b. Classified information already in being should not be declassified without prior review.
- c. The protection of intelligence sources and methods will be enhanced if material pertaining to them is appropriately marked and subjected to special requirements before being released to the public. (These requirements have already been set forth in DCID 1/7 and in memoranda from the Director of Central Intelligence to members of the USIB and other addressees.)

7. The current draft incorporates all of these principles with one exception. It directs automatic declassification after 30 years. This procedure is unacceptable to the Agency, because, for example, the Clandestine Service still makes regular "hits" when checking current names against Office of Strategic Services records. Paragraph 1.g. and 1.i. of the attached memorandum correct this inadequacy.

8. One of the new provisions of the current draft [Section 2(g)] which had not been previously furnished to or considered by the Committee members requires that each "portion" of a document

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carry its own classification. The Department of Defense has followed this practice during the past five years and claims thereby to reduce the proliferation of classified documents. The Deputy Director for Intelligence is opposed to this change. His objection is reflected in paragraph 1, b. of the attached memorandum.

9. Another new provision in the current draft requires listing on every classified document the name or names of the persons who originally made the classifying decision. In paragraph 1, c. of our attached reply we requested either the deletion of this requirement or an exemption for intelligence documents. We do this because we cannot list on widely disseminated documents the names of those of our employees who are engaged in operations abroad.

10. During the coordination stage of the Order, the Deputy Director for Plans suggested that you verbally advise the Director of the following points:

- a. A bureaucratic problem may exist in listing the names of the Agency officers who have classification authority as required in Section 2(d)(1), 2(e) and 2(f), page 5.
- b. The new committee to be established pursuant to Section 10(d) has the authority to have access to any classified information and material of any Agency.

We believe that the first problem can be handled during the implementation phase of the Order and the second problem can be handled by appropriate liaison with the Office of the President whenever we are unwilling to release particular classified documents and materials. We also believe that it would be a rare case when the committee would request Agency classified documents and materials which we would be unwilling to disclose.

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11. In view of the inclusions in the Order of Items of particular interest to this Agency and the fact that the remainder of our special needs are set forth in the attached memorandum, it is recommended that you sign it.



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Howard J. Osborn
Director of Security

Attachment

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